

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

EDWARD J. McLAUGHLIN,	:	
	:	Civ. No. 19cv8696(RMB)
Petitioner	:	
v.	:	
	:	MEMORANDUM AND ORDER
WARDEN DAVID ORTIZ,	:	
	:	
Respondent	:	

Petitioner Edward J. McLaughlin, an inmate incarcerated in the Federal Correctional Institution in Fort Dix, New Jersey, filed a habeas petition under 28 U.S.C. § 2241 seeking relief from his conviction under 18 U.S.C. § 924(c), pursuant to Sessions v. DiMaya, 138 S. Ct. 1204 (2018). (Pet., ECF No. 1.) This Court transferred the petition to Petitioner's sentencing court in the United States District Court, Middle District of Pennsylvania, where Petitioner's § 2255 motion was pending. (Order, ECF No. 15.) Petitioner subsequently filed a letter wherein he seeks to file a new action in this Court under Federal Rule of Civil Procedure 60(B), (C)(3) and (D). (Letter, ECF Nos. 16 and 16-1.) Fed. R. Civ. P. 60 provides for relief from a judgment or order under limited circumstances.

In Petitioner's Rule 60 motion, he challenges his conviction and sentence imposed in the Middle District of Pennsylvania. "Rule

60(b) cannot be used as an independent means to relieve a defendant of a judgment in a criminal case, because the Federal Rules of Civil Procedure are not applicable to criminal cases." Gray v. United States, 385 F. App'x 160, 162 (3d Cir. 2010). Therefore, the Court will not open a new case for Petitioner's motion under Fed. R. Civ. P. 60.

IT IS therefore on this 24th day of October 2019,
ORDERED that the Clerk shall reopen this matter; and it is
ORDERED that Petitioner's letter request to open a new action (ECF No. 16) is **DENIED**; and it is further
ORDERED that the Clerk shall serve a copy of this Memorandum and Order on Petitioner by regular U.S. mail; and it is further
ORDERED that the Clerk shall close this case.

s/Renée Marie Bumb
RENÉE MARIE BUMB
UNITED STATES DISTRICT JUDGE